

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

PLAINTIFFS' MOTION FOR ENTRY OF PRETRIAL SCHEDULE

For the reasons set forth below, Plaintiffs respectfully move the Court for an order establishing a pretrial schedule.

The Court has set a tentative trial date of January 9, 2024, and is holding the remainder of that month for trial. (Sept. 1, 2023 Tr. at 78:11-23.) A significant amount of work will be required to prepare for a multi-week trial in this case, particularly given the voluminous discovery record, creating the need for the parties to begin trial preparation now and to know what specific pretrial deadlines they need to work toward and plan around—particularly given the significant Thanksgiving and winter holidays at the end of the year, shortly before trial is set to begin.

On October 5, 2023, Plaintiffs proposed the below pretrial schedule to Defendants and offered to meet and confer to reach agreement on a stipulated order setting a pretrial schedule. After receiving no response, Plaintiffs followed up on October 9, 2023. On October 10, 2023, Defendants objected to the entry of any

pretrial schedule before this Court decides the pending summary judgment motions, despite the tentative trial date and the extraordinary time crunch the parties will suffer should the trial date hold without a pretrial schedule in place as soon as possible.

In short, a pretrial schedule is needed to avoid an unworkable and highly prejudicial time crunch in the months and weeks leading up to a January 9, 2024 trial, on the heels of the winter holidays, and to minimize unnecessary burdens on the Court and the parties. Plaintiffs' proposed schedule seeks to balance Defendants' concerns regarding narrowing the issues to be tried with the need to move forward expeditiously with preparation for trial. The deadlines to exchange witness and exhibit lists, for example, are still weeks away, by which time this Court may have decided the pending summary judgment motions. And, of course, the parties can further narrow such lists as needed should the Court decide those motions after the initial exchanges. Having deadlines in place now for critical pretrial exchanges at least will enable the parties to move forward with trial preparations—which the Court previously indicated are likely to be needed—efficiently, effectively, and fairly.

Plaintiffs respectfully request that the Court grant this Motion for Entry of the following Pretrial Schedule.

Case Event	Deadline
Status hearing regarding the pending DRE-related fee requests as well as pending summary judgment motions	Thursday, October 19, 2023
Parties to meet and confer regarding anticipated motions <i>in limine</i>	Thursday, October 19, 2023
Parties to exchange proposed detailed witness lists	Friday, October 27, 2023
Parties to exchange proposed trial exhibit lists	Wednesday, November 1, 2023
Parties to exchange deposition designations	Monday, November 6, 2023
Parties to exchange lists of: (i) objections to exhibits, (ii) objections to deposition designations, (iii) deposition counter-designations, and (iv) counter-exhibits	Thursday, November 16, 2023
Parties to exchange objections to deposition counter-designations and proposed findings of fact and conclusions of law ¹	Tuesday, November 21, 2023
Parties to meet and confer to narrow any objections to any pretrial submissions	Wednesday, November 29, 2023
Parties to finalize joint witness list, joint exhibit list, and joint deposition designation list and provide any notice regarding witness availability	Thursday, November 30, 2023

¹ Defendants objected to the exchange of proposed findings of fact and conclusions of law before trial, indicating that they expect the Court would require these only after trial with the benefit of a complete trial record. Plaintiffs do not object to this approach and welcome the opportunity to reduce the cost and burden of pretrial work, but of course will do whatever best serves the Court.

Case Event	Deadline
Joint witness list, joint exhibit list, and joint deposition designation list filed with Court; parties to exchange responses to proposed findings of fact and conclusions of law ²	Friday, December 1, 2023
Motions <i>in limine</i> filed with Court	Thursday, December 7, 2023
Final meet and confer regarding settlement and proposed findings of fact and conclusions of law ³	Monday, December 11, 2023
Responses to motions <i>in limine</i> filed with Court	Thursday, December 14, 2023
Replies to motions <i>in limine</i> filed with Court	Monday, December 18, 2023
Final Pretrial Conference	Thursday, December 21, 2023
Proposed findings of fact and conclusions of law filed with the Court ⁴	Friday, January 5, 2024
Trial begins	Tuesday, January 9, 2024

[signature on following page]

² See footnote 1.

³ See footnote 1.

⁴ See footnote 1.

Respectfully submitted this 12th day of October, 2023.

/s/ David D. Cross

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ David D. Cross
David D. Cross

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CERTIFICATE OF SERVICE

I hereby certify that on October 12, 2023, a copy of the foregoing **PLAINTIFFS' MOTION FOR ENTRY OF PRETRIAL SCHEDULE** was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ David D. Cross

David D. Cross